

### **REMARKS**

The present invention is a communications device. A communications device in accordance with an embodiment of the invention includes a messaging user interface for selecting a component for inclusion in a message, for selecting at least one of time, date and location conditions as described in the specification as filed on page 2, lines 17-18 and page 5, lines 29-30 under which the message may be opened by a device of a recipient and for storing the component as a message together with a message header holding the at least one of time, date and location conditions under which the message may be opened by the device of the recipient in a memory of the communication device. The message header is exemplified in Figure 3 and is identified by reference numeral 11. See the last paragraph of page 6 of the specification through page 7.

Claims 2, 3, 9 and 10 stand rejected on grounds of indefiniteness as stated in section 2 of the Office Action. The specification has been amended on page 4 to provide little antecedent basis for the subject matter of claims 3 and 4 which is believed to address the Examiner's rejection on grounds of indefiniteness with respect to claim 3. Additionally, claims 2, 9 and 10 have been amended to overcome the problems regarding antecedent basis.

Claims 1-2 and 5-13 stand rejected under 35 USC §103 as being unpatentable over EP 788 065 (Jennings) in view of U.S. Patent No. 5,838,685 (Hochman). These grounds of rejection are traversed for the following reasons.

The Examiner correctly observes that "Jennings does not disclose a message header holding the conditions under which the message may be opened by the device of the recipient." Hochman has been cited as disclosing "means for selecting conditions under which the message may be opened by a device of a recipient and

means for storing said component (e.g., facsimile image, conventional text, audio or video file) as a message together with a message header holding the conditions under which the message may be opened by the device of the recipient (see Fig. 3; column 4, lines 16-53)."

The Examiner's reliance upon Hochman is misplaced. Hochman discloses a system by which additional indicia is made available to users of a transmission network which is set forth in the header. The reception facility does not need to process or inspect the message body (see column 3, lines 5-14 and column 4, lines 37-45). However, Hochman does not disclose "means for selecting conditions under which the message may be opened by a device of a recipient" as recited in claim 1 as rejected. If the Examiner persists in the stated grounds of rejection it is requested that he explain on the record how the indicia disclosed by Hochman in a header is interpreted to read upon the claimed means for selecting conditions under which the message may be opened by a device of a recipient.

Moreover, claim 1 further recites "means for selecting at least one of time, date and location conditions under which the message may be opened by a device of a recipient" and "means for storing said component as a message together with a message header holding the at least one of time, date and location conditions under which the message may be opened by the device of the recipient in the memory of the communication device." The aforementioned indicia of Hochman do not function in a manner to provide information "for selecting at least one of time, date and location conditions under which the message may be opened."

Since there is no disclosure in Jennings or Hochman pertaining to the subject matter of claim 1 including "the means for selecting at least one of time, date and location conditions under which the message may be opened by a device of a

recipient” and “means for storing said component as a message together with a message header holding the at least one of time, date and location conditions under which the message may be opened by the device of the recipient in a memory of the communication device,” a person of ordinary skill in the art even if motivated to make the proposed combination would not arrive at the claimed subject matter.

Moreover, it is submitted that the Examiner has not supplied on the record any basis why a person of ordinary skill in the art would be motivated to make the proposed combination except by impermissible hindsight.

If the Examiner persists in the stated grounds of rejection it is requested that he state on the record where Hochman discloses means for selecting at least one of time, date and location conditions and further what the motivation for a person of ordinary skill in the art to make the proposed combination.

Furthermore, the subject matter of dependent claims 2 and 5-13 further limits the subject matter of claim 1 in a manner which would not be considered to be obvious by a person of ordinary skill in the art.

Claims 3-4 stand rejected under 35 USC §103 as being unpatentable over Jennings in view of Hochman, further in view of U.S. Patent No. 6,421,707, (Miller, et al.). These grounds of rejection are traversed for the following reasons.

Miller, et al., does not cure the deficiencies noted above with respect to the proposed combination of Jennings in view of Hockman as applied to the rejection of claims 1 and 2. While the Examiner states that Miller discloses “means for selecting conditions under which a message may be opened” with the Examiner relying upon column 2, line 66 through column 3, line 5, it is submitted that a person of ordinary skill in the art would not consider the disclosure therein to suggest what the Examiner has interpreted Miller to disclose. Specifically, what is disclosed in the

aforementioned portion of Miller, et al., is a subsystem 110 which consults a user profile database to determine how particular input is to be processed. The reference to processing does not disclose to a person of ordinary skill in the art means for selecting conditions under which the message may be opened. Accordingly, Miller does not cure the deficiencies noted above with respect to the proposed combinations of Jennings and Hochman, et al.

Moreover, it is submitted that a person of ordinary skill in the art would not be motivated to combine Miller with Jennings in view of Hochman except by impermissible hindsight. As stated previously, the Examiner has not demonstrated any motivation why the proposed combination would be made with the Examiner's discussion in the second paragraph on page 6 being submitted to be merely conclusory and not demonstrating proper motivation.

Claim 14 is rejected under 35 USC §103 as being unpatentable over Jennings in view of Hochman further in view of Miller. The deficiencies of Miller have already been pointed out above and it is submitted that the proposed combination would not be obvious.

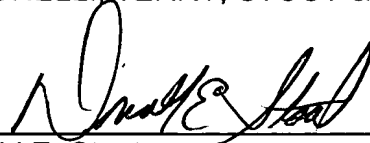
The Examiner's discussion in section 11 of the "intended use limitations" is not understood and is submitted to be erroneous since the subject matter of claim 1 is recited as inter alia "a messaging user interface ... including means for selecting... and means for storing" which are proper limitations under the sixth paragraph of 35 USC §112 which are required to be afforded the scope of the corresponding materials structure or acts as disclosed in the specification.

In view of the foregoing amendments and remarks it is submitted that each of the claims in the application is in condition for allowance. Accordingly, early allowance thereof is respectfully requested.

Applicants request any shortage or excess in fees in connection with the filing of this paper, including extension of time fees, and for which no other form of payment is offered, be charged or credited to Deposit Account No. 01-2135 (Case: 1289.39429X00).

Respectfully submitted,

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June 3, 2005